

David W. Parham  
State Bar No. 15459500  
John Mitchell  
State Bar No. 00797095  
Rosa A. Shirley  
State Bar No. 24056313  
2300 Trammell Crow Center  
2001 Ross Avenue  
Dallas, Texas 75201  
Telephone: (214) 978-3000  
Facsimile: (214) 978-3099  
Email: [david.parham@bakermckenzie.com](mailto:david.parham@bakermckenzie.com)  
Email: [john.mitchell@bakermckenzie.com](mailto:john.mitchell@bakermckenzie.com)  
Email: [rosa.shirley@bakermckenzie.com](mailto:rosa.shirley@bakermckenzie.com)

- and -

Erin E. Broderick (*admitted pro hac vice*)  
Illinois Bar No. 6295974  
300 East Randolph Drive, Suite 5000  
Chicago, Illinois 60602  
Telephone: (312) 861-8000  
Facsimile: (312) 861-2899  
Email: [erin.broderick@bakermckenzie.com](mailto:erin.broderick@bakermckenzie.com)

*Attorneys for MtGox Co., Ltd., a/k/a MtGox KK*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re	)	
	)	Chapter 15
	)	
MtGox Co., Ltd. (a/k/a MtGox KK)	)	Case No. 14-31229-sgj15
	)	
Debtor in a Foreign Proceeding.	)	Emergency Hearing Requested for
	)	April 15, 2014 at 9:30 a.m. (CDT)
	)	

**EMERGENCY MOTION FOR CONTINUANCE OF DEPOSITION**

MtGox Co., Ltd., a/k/a MtGox KK (the “Debtor” or “MtGox”), a debtor in a civil rehabilitation proceeding under Japanese law (the “Japan Proceeding”), currently pending before the Twentieth Civil Division of the Tokyo District Court, Japan (the “Tokyo Court”), by counsel, hereby moves (the “Motion”) to continue the deposition of Mr. Robert Marie Mark Karpeles

(“Karpeles”), currently scheduled for April 17, 2014, to May 5, 2014, and hereby requests emergency consideration thereof. In support of this Motion, MtGox respectfully states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

2. Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

### **RELIEF REQUESTED**

3. By this Motion, the MtGox respectfully requests that the April 17, 2014 deposition of Mr. Karpeles pursuant to the Deposition Order be continued to May 5, 2014, or such other date as the parties may agree.

### **EMERGENCY CONSIDERATION REQUESTED**

4. Emergency consideration of this Motion on April 15, 2014 at 9:30 a.m. is warranted since the Bankruptcy Deposition sought to be continued is scheduled for April 17, 2014 (three days away).

### **BACKGROUND**

5. On March 9, 2014, MtGox filed the *Verified Petition for Recognition and Chapter 15 Relief* [Dkt. No. 1] (the “Petition”).

6. On March 10, 2014, MtGox filed the *Emergency Application for an Order Granting Provisional Relief Pursuant to Sections 105(a) and 1519 of the Bankruptcy Code, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice* [Dkt. No. 4] (the “Application”). On the same day, this Court entered its *Order Granting Application for*

*Provisional Relief, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice* [Dkt. No. 13] (the “Order”).

7. Under the Order, the Court, among other things, ordered that (a) the Debtor is entitled to the full protections and rights available under Section 1519(a)(1-3) of the Bankruptcy Code; and (b) pursuant to Sections 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, Section 362 of the Bankruptcy Code is applicable to the Debtor and its assets, until further orders of the Court or as so ordered at the Recognition Hearing. Order at ¶1.

8. The Recognition Hearing is currently scheduled for May 20, 2014.

9. On March 25, 2014, Gregory D. Greene and Joseph Lack, plaintiffs in the U.S. Litigation Matters,<sup>1</sup> filed their *Motion to Compel Deposition Testimony in the United States From the Foreign Representative* [Dkt. No. 37] (the “Motion to Compel”).

10. On April 4, 2014, following a hearing on the Motion to Compel, this Court entered the *Order Granting, With Modifications, the Motion of Creditors Gregory Greene and Joseph Lack for Order Compelling Deposition Testimony in the United States From the Foreign Representative* [Dkt. No. 72] (the “Deposition Order”). Pursuant to the Deposition Order, the deposition (the “Bankruptcy Deposition”) of Mr. Karpeles is scheduled for April 17, 2014 in Dallas, Texas, U.S.A.

### ***The Department of Treasury Subpoena***

11. At the April 1, 2014 hearing on the Motion to Compel, the Office of the United States Trustee for the Northern District of Texas, Dallas Division (the “UST”) advised the Court on activities of the Department of Homeland Security and the Debtor’s alleged failure to register with the Department of the Treasury Financial Crimes Enforcement Network

---

<sup>1</sup> The U.S. Litigation Matters are *CoinLab, Inc. v. Mt. Gox KK and Tibanne KK*, No. 2:13-cv-0777 (W.D. Wash. May 2, 2013) and *Gregory Greene v. MtGox Inc., Mt. Gox KK, Tibanne KK and Mark Karpeles*, No. 1:14-cv-01437 (N.D. Ill. February 27, 2014).

(“FinCEN”). At the same hearing, counsel for the Debtor announced that Mr. Karpeles would be retaining separate counsel to represent him individually.

12. On April 4, 2014, the UST requested the name and contact information for Mr. Karpeles’ counsel. The requested information was provided to the UST on the same day. The UST did not (and has not, to this day) contacted Mr. Karpeles’ counsel. Instead, on April 7, 2014 (the next business day), Eric N. Macey, civil litigation counsel to Karpeles in the *Greene, et al. v. MtGox, Inc., et al*, currently pending in the United States District Court for the Northern District of Illinois, received a copy of a Summons from the Department of the Treasury Financial Crimes Enforcement Network (the “FinCEN Subpoena”). The FinCEN Subpoena requires Karpeles to appear and provide testimony in Washington, D.C. on April 18, 2014 – *the day after the scheduled Bankruptcy Deposition of Karpeles in Dallas*. The FinCEN Subpoena did not attach a document request and did not specify topics for discussion. Accordingly, Mr. Karpeles has no way currently of knowing what FinCEN wishes to discuss.

### **ARGUMENT**

13. Mr. Karpeles is now in the process of obtaining counsel to represent him with respect to the FinCEN Subpoena. Until such time as counsel is retained and has an opportunity to “get up to speed” and advise Mr. Karpeles, he is not willing to travel to the U.S.

14. MtGox thus cannot guarantee that Mr. Karpeles will attend the deposition on May 5, 2014, either. Nevertheless, it seeks this extension because Mr. Karpeles will not appear on April 17, 2014 due to the FinCEN Subpoena and his need to retain additional counsel to consult with regarding attendance at depositions in the United States.

15. Cause exists to continue the deposition due to the intervening circumstances of the FinCEN Subpoena and the resulting need for Mr. Karpeles to obtain counsel. No harm will result to the Plaintiffs since the Recognition Hearing is not scheduled until May 20, 2014.

16. The Japanese Court has been advised of this issue and the difficult circumstances it creates for MtGox. A hearing is scheduled for 10:30 a.m. on April 15, 2014 in Japan, the results of which will be reported at the hearing on this Motion.

### **NOTICE**

17. Copies of this Motion, and all related documents and proposed forms of orders have been provided to (a) the UST, and (b) counsel to the US Litigation Matters via electronic mail and facsimile. Petitioner submits that the above notice and service constitute reasonable and proper notice under the circumstances, and that no other or further notice is necessary or appropriate.

### **CERTIFICATE OF CONFERENCE**

18. On April 14, 2014, counsel to MtGox contacted counsel to the parties to the US Litigation Matters and the UST via email and informed those parties that Mr. Karpeles would not be attending the deposition on April 17, 2014.

### **CONCLUSION**

WHEREFORE, MtGox respectfully requests that this Court grant the Motion and enter an order (a) setting an emergency hearing on the Motion for April 15, 2014 at 9:30 a.m. (Prevailing Central Time); (b) continuing the Bankruptcy Deposition to May 5, 2014 at 9:30 a.m. (Prevailing Central Time); and (c) granting MtGox such other and further relief as the Court deems just and proper.

Dated: April 14, 2014  
Dallas, Texas

Respectfully submitted,

**BAKER & McKENZIE LLP**

By: /s/ David W. Parham

David W. Parham

State Bar No. 15459500

John Mitchell

State Bar No. 24056313

Rosa A. Shirley

State Bar No. 24056313

2300 Trammell Crow Center

2001 Ross Avenue

Dallas, Texas 75201

Telephone: (214) 978-3000

Facsimile: (214) 978-3099

Email: [david.parham@bakermckenzie.com](mailto:david.parham@bakermckenzie.com)

Email: [john.mitchell@bakermckenzie.com](mailto:john.mitchell@bakermckenzie.com)

Email: [rosa.shirley@bakermckenzie.com](mailto:rosa.shirley@bakermckenzie.com)

- and -

Erin E. Broderick (*admitted pro hac vice*)

Illinois Bar No. 6295974

300 East Randolph Drive, Suite 5000

Chicago, Illinois 60602

Telephone: (312) 861-8000

Facsimile: (312) 861-2899

Email: [erin.broderick@bakermckenzie.com](mailto:erin.broderick@bakermckenzie.com)

*Attorneys for MtGox Co., Ltd., a/k/a MtGox  
KK*

**CERTIFICATE OF SERVICE**

This is to certify that on April 14, 2014, a copy of the foregoing document was served on the parties registered to receive electronic notification via the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas, and via United States first class mail, postage pre-paid to the parties listed below:

Alicia E. Hwang  
Edelson PC  
350 North LaSalle St., Suite 1300  
Chicago, IL 60654

Barry C. Barnett  
Susman Godfrey L.L.P.  
901 Main St., Suite 5100  
Dallas, TX 75202

Christopher L. Door  
Edelson PC  
350 North LaSalle St., Suite 1300  
Chicago, IL 60654

Edgar Sargent  
Susman Godfrey LLP  
1201 3rd Avenue, Suite 3800  
Seattle, WA 98101-3087

G. Larry Engel, Vincent J. Novak,  
and Kristin A. Hiensch  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, CA 94105-2383

Jay Edelson  
Edelson PC  
350 North LaSalle St., Suite 1300  
Chicago, IL 60654

Josephine Garrett  
Josephine Garrett, P.C.  
3119 West 5th Street  
Fort Worth, TX 76107

Lisa L. Lambert  
U.S. Trustee  
Office of the U.S. Trustee  
1100 Commerce Street  
Dallas, TX 75242

Mark Karpeles  
6-28-3302, Aobadai 3-chome,  
Meguro-ku  
Tokyo, Japan

Megan Lindsey  
Edelson PC  
999 West 18th St., Suite 3000  
Denver, CO 80202

MtCox, Co. Ltd. a/k/a MtGox KK  
11-5, Shibuya 2-chome, Shibuya-ku  
Tokyo, Japan

Robin E. Phelan  
Haynes and Boone, LLP  
2323 Victory Avenue, Suite 700  
Dallas, TX 75219

Roger M. Townsend  
Breskin Johnson & Townsend PLLC  
1000 2nd Ave., Suite 3670  
Seattle, WA 98104

Scott B. Kitei  
Honigman Miller Schwarts and Cohn LLP  
2290 First National Bldg.  
660 Woodward Ave.  
Detroit, MI 48226

Stephen Manz  
Haynes and Boone, LLP  
2323 Victory Avenue, Suite 700  
Dallas, TX 75219

Steven L. Woodrow  
Edelson PC  
350 North LaSalle St., Suite 1300  
Chicago, IL 60654

The Honorable Jeh Johnson  
Secretary of Homeland Security  
Department of Homeland Security  
Washington, DC 20528

/s/ David W. Parham  
David W. Parham